

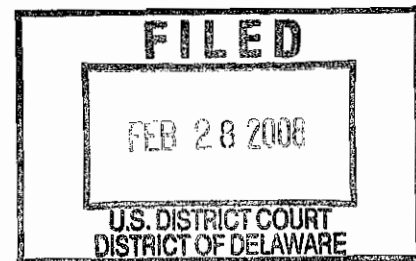
UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

JAMES ARTHUR BIGGINS,
Plaintiff,

VS.
GOVERNOR RUTH ANN MINNER, ET AL.,
Defendants.

CAN. 1-08-04 GMS

To The Honorable Gregory M. Sleet
Judges Chambers
United States District Court House
844 North King Street, Lockbox 19
Wilmington, Delaware 19811



BD scanned

Your Honor,

In lieu of my pending request for an immediate temporary restraining order, I respectfully extend this letter there in light of the defendants' Correctional Medical Services (CMS) recently submitted answer in opposition thereto, as following:

1. It appears that without the Court's approval to the defendants (CMS) has nevertheless, submitted an answer to the plaintiff's request for an immediate temporary restraining order. Argumentative, while the defendants assert that they were granted an extension of time. They have failed to produce a copy of that order, adding that the plaintiff has neither received the Court's grant of such motion to date.

Facts

2. The plaintiff finds Mr. Devec's allegations of having interviewed medical personnel regarding Dr. Brown's examination and diagnosis on or about October 2003, is simply untrue:
(A) There is currently no (CMS) employees working now at the Delaware Correction-

1. Absent an order by the Court the defendants may not proceed in any proceeding past the mandatory limitations to have filed their answer to the Court's request.

Al Lester, Smyrna, Delaware, who was employed by (CMS) in 2003;

(b) Even if the Court was to give Mr. Durec the benefit of a doubt, Mr. Durec by rules of the Court cannot simply state such a fact, but should have implied his facts by submitting affidavits of those employees, so that the Court could determine matter-a-factly (1) who they are, and (2) what relevance if any their affidavit had on the issue at hand. Without more Mr. Durec's assertion is plainly hearsay, and must be rejected by the Court;

(c) In a continuing line of deceit, Mr. Durec has submitted an unsworn affidavit purported to be from (Dr. Louise Desrosier). This affidavit must be rejected by this Court for the following reasons. (1) again it is unsigned and cannot be accepted by the Court as validating Dr. Desrosier's remarks, and (2) it's evident further that in Mr. Durec rush after asking the Court to accept his alleged affidavit by Dr. Desrosier to be true. He wouldn't have declared her as being too sick to have signed it. When the plaintiff submitted as a cause of further "deliberate indifference" to his serious medical needs, a letter written to Dr. Desrosier regarding her malpractice of prescribing Paxa for a muscle relaxer to him on February 21, 2008, at approx 4:10 pm or so. To the Court and defendants (CMS) (with attached exhibits of their medical settlement agreement policies pertinent to the issue of prescribing appropriate medications, and copies of the Bureau Chief's February 4, 2008, decision again finalizing Dr. Brown's 2003, proscribed form of treatment and medications). With Court's previous order for (CMS) to have responded to my request for an immediate temporary restraining order;

(d) Plaintiff pain medication (Ultram) was discontinued by Dr. Desrosier on or about December 4, 2007. However, plaintiff was told by the doctor that this was a (CMS) administration decision, citing medication had gotten harder to get for the company;

(e) Although Mr. Durec seem to indicate to the Court that Tylenol 3, another pain medication replaced the (Ultram) that had been discontinued. But in fact has been given the plaintiff as a "immediate short term" pain reliever since 2007;

2. This same muscle relaxer had been prescribed in January 2007, by Dr. Frederick Vindusen and caused severe side effects (bloody stool and irregular bowel movements frequently). Plaintiff had to be taken off in only a week of use. The side effects are further noted in medical history.

(f) Contradicting Mr. Durec alleged facts entered in his opposition at point n. 6(a). Shows again his deceit to the Court. As previously demonstrated Dr. Desrosier prescription for (Vicodin) was written February 21, 2008, along with her prescription for Pain-forte;

(g) Mr. Durec and/or the defendants may not argue either that this is a case of an inmate not getting a desired form of medical care. While the defendants (CMS) seem to believe that their duty to care gives them final medical approval, just isn't true. In accordance with Grievance Policy 4.4, at (5) all final inmate medical decisions are determined by the Bureau Chief of the Bureau of Prisons. Adding that it in no way affect their duty to care, but makes sure that adequate medical care is given to the inmate. Moreover, the defendants are not or can simply make a policy to just decrease an inmates medication ³¹ because of physiotherapy. Courts have observed that the Constitution is violated "if deliberate indifference causes an easier and less efficacious treatment to be consciously by the doctors"; White v. Napoleon, 897 F.2d 103, 109 (3rd Cir. 1990) ("ineffective course of treatment doctor knew were painful entails a substantial risk of seriousness constitutes 'deliberate indifference'").

(h) Plaintiff can find no relevance to Mr. Durec's assertion that he has been given adequate prescribed medications. Despite Mr. Durec alleged affidavit of Dr. Desrosier or Exhibit C, plaintiff's recently decided medical grievance decision regarding being given his pain medication discounts this notion. See attached hereto Exhibit A-1 and A-2, adding that medication administration records do not always show what is actually taken place by the defendants at Delaware Correctional Center (DCC);

(i) As for Mr. Durec's assertion that regarding the stoppage of (Neurotin) in and of itself is grounds for this Court to impose the plaintiff's request. In another medical grievance decision, the Bureau Chief has ordered that the defendants to discontinue dispensing it on the plaintiff. Whereas, the plaintiff has successfully argued that (Neurotin) was ineffective as a muscle relaxer, causes unnecessary liver and

2. Plaintiff's medications only consist of Inorectic (Tylenol 3), (Ultram) is non-narcotic. Likewise, defendant's statement seems to suggest that they have settled for a cheaper form of care over what an inmate may need. Williams v. Vincent, 508 F.2d 541, 544 (2nd Cir. 1974).

kidney damage and raises the risk of suicide. Adding that defendant uses the drug as a cheaper form of treatment for pain relief. Noting that (Neurotin) was specifically FDA approved only for Epilepsy. Given the defendant's conduct, this act has the opportunity of repeating itself, since the defendant does not believe that the Bureau Chief's decision is binding on them. Although this decision was attached to the letter written to Dr. Desrosier, and submitted to the Court and Mr. Durec dated February 22, 2008. An edited version thereof is entered here as Exhibit B-1 then B-4, and B-2 (noting the role that (Neurotin) played in my daily medical treatment at exhibit B-1 and B-2);

(j) Defendant's assertion by Mr. Durec that in some way reimplimenting Physiotherapy is reducing the plaintiff's reliance on medication is baseless. (1) this type of treatment can only work in the plaintiff's case in the conditioning of his back muscles to relieve stiffness, (2) it has no bearing on the conditions that causes back pain, and, (3) future MR1's will not disclose any new details unless plaintiff has recently aggravated something or worse. Moreover, Mr. Shawn Moore the therapist treating the plaintiff stopped any further sessions because there was no further benefits. And causes pain in and of itself, by conducting therapy, because it dictate either Mr. Moore having to maneuver the plaintiff in certain positions or he himself;

(k) Mr. Durec's argument that plaintiff's repeated sick calls are frivolous, is too baseless. As already in both the Court and the defendant's (CMS) possession, those sick calls replies on the copies thereof from several (CMS) medical employees who have responded to them since January 10, 2008, and up to February 4, 2008, or so informing that he was scheduled to be seen by the doctor in regards to his medications. Not to mention the attached exhibits submitted herewith.

4. Weinstein v. Bradford, 423 U.S. 147, 149, 96 S.Ct. 347, 46 L.Ed.2d 350 (1975) (capable of repetition is an exception to the mootness doctrine). See also, Abdul-Akbar, 775 F.Supp.2d 13-14.

Argument

3. The plaintiff maintains that he has met the requirements for a preliminary injunction on his behalf. See Clean Ocean Action v. York, 57 F.3d 328, 331 (3d Cir. 1995), S.R. Corp. v. Ditty Lube Intern., Inc., 968 F.2d 371, 374 (3d Cir. 1992). And his motion should be granted, having carried his burden of proof.

4. Indeed, by the actions thus far, the plaintiff has not only established grounds for relief pursuant to "deliberate indifference" to his serious medical needs. But has additionally is under "imminent danger".

5. This is not a civil action about medical malpractice. However, medical malpractice is just another one of the underpinnings for causation and demonstrates a "continual pattern of ineffective and reprehensible medical treatment".

6. To imagine that the defendants (CMS) suggest to the Court, that unnecessary and wanton infliction of pain is Constitutional under the Eighth Amendment, lies in the face of logical reasoning. See Gregg v. Georgia, 428 U.S. 153, 173, 96 S.Ct. 2909, 2925, 49 L.Ed.2d 859 (1976).

7. Whenever an inmate is forced to bear untreated consequences of a serious medical problem. Further denials of adequate and proper medical care is "cruel and unusual punishment" because it results in physical torture, or pain without serving a real penological interest. See Rhodes v. Chapman, supra, 101 S.Ct. 2399.

8. If indeed, the evolving standards of decency marks the progress of our maturing society. Then, this Court must not allow the defendants (CMS) and others actions and conduct in this case go unchallenged. See Estelle v. Gamble, 429 U.S. 97, 102, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976).

Wherefore, for one or all of the foregoing reasons, plaintiff motion for a temporary restraining order be granted now, without further delay respectfully.

February 27, 2008

James A. Higgins
Delaware Correctional Center
1181 Paddock, Unit #22/A-U-4
Smyrna, Delaware 19977

9. The defendant's (CMS) by and through Mr. Duree has done nothing more than attempt to manufacture evidence and deceive the Court, however it could in this process.

Exhibits

United States District Court
District of Delaware

JAMES ARTHUR BIGGINS,
Plaintiff,

vs.
GOVERNOR RUTH ANN MINNER, ET AL.
Defendants

CAN 1-08-04 GMS

to: DR. LOUISE DESROSIER
CORRECTIONAL MEDICAL SERVICES
DELAWARE CORRECTIONAL CENTER
SMYRNA, DELAWARE 19977

Dr. Desrosier:

It was apparently clear to me yesterday afternoon, Wednesday, February 20th, 2008. That either very little communicating takes place between yourself and your superiors, because you seem to have no clue of the decision made by Bureau of Prison's Chief (Richard KENNEDY) on February 4th, 2008, regarding the approval of certain medication for my chronic back conditions and other amenities. Or as your supervisors, respectfully, don't care. Nonetheless, I am giving you that benefit of doubt.

Enclosed, is a copy of the decision in question attached hereto. Noting that this is the fourth time this decision has been rendered while under (CMS) medical care. However, it is my first attempt to make known to you that decision which is final and mandatory upon (CMS) and its medical personnel to follow. After having my medications abruptly stop on January 10th, 2008, just days after allegedly you had renewed them. I have repeatedly submitted sick-calls adding up to six (6) not including yesterdays, that for unknown reasons all mysteriously disappeared from being filed. Which you advised

was why i hadn't been seen, despite LP Richard, LP. Gwanie King, and LP. Kay all having informed me that each had made doctor referrals from my sick-calls. But i guess the real reason is, as were indicated to me after having checked for pharmacy orders, you never made any prescript's orders for me last month.

Now, to the issue at hand. Since December 30, 2004, i have been approved Soma for back pain relief. But according to yourself and others who have treated me over they years. You all do not carry it any longer, because it and Ultram are hard to get. Man, i've never been able to understand that excuse, since both are still manufactured! Even if so, under your companies settlement agreement with the United States Department of Justice, affected December 30, 2006, you are supposedly provide an adequate substitute. See Policy Agreement No. #14 and #25 attached hereto. Because of your intuitiveness i haven't complained under your care about not getting the exact pain management meds as approved. Your formula of 1xlonel #3 (two tablets twice daily and as needed per request), Ultram (two tablets twice daily), and Robaxin (one tablet twice daily) was working just fine and gave me much needed relief from pain daily. However, in January 2008, you discontinued all of the above with the exception of Robaxin. But to just administer the muscle relaxer Robaxin alone beg's for an explanation.

As of yesterday, you've prescribed me ten days for one and five days for the other 1xlonel #3 and Vicodin. But i don't know which is for which! Although, i thank you sincerely because of what i've been going through. What happens when your emergency prescriptions runs out? Again, i've included the Bureau of Prison's Chief decision in redacted form for Notification. If you cannot provide me with the specific medication that has been listed for me. I will expect your regiment that i was previously treated with, before all of them was discontinued. See also court's order relating to request for immediate injunctive relief for medical care.

I But prescribed Para-Phon For'te, which i cannot take because it gives me the runs and a bloody stool. So much for not reading my medical records, or you don't care. I thought that was something you, before prescribing any medication is

James Arthur Biggins (Pro Se)
JAMES ARTHUR BIGGINS #319264
Delaware Correctional Center
SMYRNA, DELAWARE 19977

24c. Policies and Procedures Regarding Missed Doses

- DOC will develop or revise and implement policies to ensure that the prescribing practitioner is notified if a patient misses doses of a particular medication on three consecutive days.
- Notice to the provider shall be documented, according to policy, in the medical chart.
- Compliance with this requirement will be audited every two months for the first two quarters beginning July 2007 and every three months for the following quarters.

Timeline for Completion:

Policy development: 07/01/07

Implementation date: 08/01/07

24d. Formulary Shall Not Unduly Restrict Medications

- The DOC will develop or revise formulary policies which reflect the understanding that the formulary developed will not unduly restrict medications.
- Additions and deletions from the formulary will be made by vote of the committee and reasons for the addition or deletion of any particular medication will be noted in the minutes of the committee.
- Non-formulary requests must be submitted to the vendor's medical director for approval.
- Reasons for denial must be documented and alternatives noted on request forms.

Timeline for Completion:

Policies: 07/01/07

Training: 08/01/07

Implementation date: 10/30/07

24e. MARs Appropriately Completed and Maintained

- The DOC is currently using a MAR in the unified chart.
- The DOC will develop or revise policies to require that medications prescribed are noted in a MAR, which will be a part of each inmate's medical file.
- DOC policies will require documentation in the MAR that is consistent with standard practices.
- Compliance with DOC policy will be audited every two months for the first two quarters beginning July 2007 and every three subsequently.

Timeline for Completion:

Finalization of policy: 07/01/07

Total implementation and completion of first Quality Improvement Audit: 10/30/07

25. Continuity of Medication

- The DOC will develop or revise policy to assure that on intake each entering inmate is screened for medications currently prescribed and those medications are noted on the intake form.
- That list will be forwarded to the prescribing practitioner, who will determine the medical appropriateness of any medications and note any changes to the medication regimen in the progress notes.
- A face-to-face encounter will be conducted when the medical condition so dictates.
- The medication prescribed will be ordered and administered consistent with the medication policy noted above.
- The DOC will implement changes to the DACS medical module to streamline this process.

Timeline for Completion

Policy: 07/01/07

Intake changes to the DACS system: 10/30/07

26. Medication Management

- The DOC will develop or revise policies and procedures consistent with standard practice for the access to, storage of, and safe and proper disposal of medications and medical waste.
- The medical vendor and the Substance Abuse Treatment Services Administrator will be the responsible parties for compliance with this item.

Timeline for Completion:

Policy: 07/01/07

Training: 08/01/07

Implementation: 09/01/07

Emergency Care

27. Access to Emergency Care

DEPARTMENT OF CORRECTION
Bureau of Prisons
245 McKee Road
Dover, Delaware 19904

22 ALL 4

February 4, 2008
~~February 3, 2008~~

Inmate BIGGINS JAMES A
SBI # 00319264
DCC Delaware Correctional Center
SMYRNA DE, 19977

Dear JAMES BIGGINS:

We have reviewed your Grievance Case # 138923 dated 08/01/2007.

Based upon the documentation presented for our review, we uphold your appeal request.

Accordingly, there is no further issue to mediate nor Outside Review necessary as provided by BOP Procedure 4.4 entitled "Inmate Grievance Procedure", Level III appeals.

Sincerely,

Richard Kearney
Bureau Chief

Ex. A-1

DCC Delaware Correctional Center
 Smyrna Landing Road
 SMYRNA DE, 19977
 Phone No. 302-653-9261

Date: 02/04/2008

GRIEVANCE INFORMATION - BGO

OFFENDER GRIEVANCE INFORMATION

Offender Name : BIGGINS, JAMES A	SBI# : 00319264	Institution : DCC
Grievance # : 138923	Grievance Date : 08/01/2007	Category : Individual
Status : Resolved	Resolution Status : Level 3	Inmate Status :
Grievance Type: Health Issue (Medical)	Incident Date : 08/01/2007	Incident Time :
IGC : McCreanor, Michael	Housing Location : Bldg 22, Upper, Tier A, Cell 4, Bottom	

REFERRED TO

Due Date : **Referred to:** **Name:**

Type of Information Requested :

DECISION

Date Received : 11/28/2007

Decision Date : 02/01/2008

Vote : Uphold

Comments :

IM last seen in medical on 1/24/08. IM last seen in cc clinic on 12/4/07. Medications were ordered on 12/4/07 but not received until 12/14/07 with a 10 day lapse. Medical vendor needs to ensure timeliness of medication administration.

DCC Delaware Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-653-9261

Date: 02/04/2008

GRIEVANCE REPORT

OFFENDER GRIEVANCE INFORMATION

Offender Name : BIGGINS, JAMES A	SBI# : 00319264	Institution : DCC
Grievance # : 115903	Grievance Date : 05/14/2007	Category : Individual
Status : Resolved	Resolution Status : Level 3	Resol. Date : 02/04/2008
Grievance Type: Health Issue (Medical)	Incident Date : 04/05/2007	Incident Time :
IGC : McCreanor, Michael	Housing Location : Bldg 22, Upper, Tier A, Cell 4, Bottom	

OFFENDER GRIEVANCE DETAILS

Description of Complaint: Since January 2007 I have been taking doctor prescribed Neurontin as a muscle relaxer due to my daily bouts with sever back pain caused by a herniated disc. Its second form of relief is to assist as a pain medication along with Tylenol 3 (1 tablet 3 times a day). However, I've been monitoring the effects of the medication on me; and while they have been helpful the short term pain relief, neither is effective alone or for long durations of time. Emphasizing that as late as April 5, 2007, or there about, I informed Dr. Van Dusen, CMS Regional Medical Director. Nonetheless, the medical treatment has stayed the same. as explained they only have certain medications they use to treat us. Williams, 805 F. Supp 634, 638 ND 111, 1992 deliberate indifference inferred from negligent treatment of long duration); (Diaz, 781 F. Supp 566, 564 ND Ind. 1991) (same); Robert E, 530 f. Supp. 930, 940 ND 111 1981- a pattern of similar instances presumptively indicates that prison administrators have through their programs and procedures created an environment in which negligence is unacceptably likely). This is true in light of the medical treatment I have received since coming here to DCC and especially since 2000 where I have been refused:

- a) Medical Treatment on numerous occasions
- b) Emergency treatment (both for long term persistent back pain and at least twice couldn't walk)
- c) Made a joke of by NP Maggie Bailey and told that I was imagining my back problem
- d) Misdiagnosed for years
- e) Refused proper medication when prescribed by a doctor
- f) Refused medical amenities when prescribed by a doctor.

All of which continues to this day despite my numerous past or present grievances. Estelle, 429 US at 104, intentionally denying or delaying a care constitutes deliberate indifference. My medical record is clear on what works on me regarding my back pain condition and despite Soma being approved for me by former Bureau Chief Paul Howard (twice over a 2 year period), I've been denied its treatment effects for less performing drugs, even though it is being administered to others as non-formula.

Now back to the Neutron I am being given. As I said I have been monitoring its effects and side effects, which through hours of research, have learned some daunting information. The drug is made by Werner-Lambert (owned by Pfizer since 2000) is not a drug that has not been licensed for pain relief treatment by the FDA. In fact, it has been approved for epilepsy only. Neutron carries serious side effects, especially long term use, other than what it has been approved for by the FDA. The illegitimate marketing of this drug as a muscle or pain relief medication is a disservice to the medical profession, me as a patient who depends on the information to be true, and the general public at large. This practice circumvents FDA regulations/guidelines and has caused the administration of a drug being used that is neither safe or effective for muscle or pain relief and should be discontinued immediately in violation of the Federal False Claims Act.

Remedy Requested : I am requesting:

- a) Immediate discontinuation of current medical practice of dispensing Neurontin as a muscle or pain reliever.
- b) Place Grievant back on Soma 2 tablets/3 times a day for pain relief or (illegible)
- c) Dispense to Grievant medical amenities (sneakers, size 9, and a back brace, not a hernia belt.
- d) Restitution damage awards as follows: Grievant shall receive 1,000,000 dollars, jointly or collectively, from DOC/DCC

Ex B-1

DCC Delaware Correctional Center
 Smyrna Landing Road
 SMYRNA DE, 19977
 Phone No. 302-653-9261

Date: 02/04/2008

GRIEVANCE INFORMATION - Appeal

OFFENDER GRIEVANCE INFORMATION

Offender Name : BIGGINS, JAMES A	SBI# : 00319264	Institution : DCC
Grievance # : 115903	Grievance Date : 05/14/2007	Category : Individual
Status : Resolved	Resolution Status : Level 3	Inmate Status :
Grievance Type: Health Issue (Medical)	Incident Date : 04/05/2007	Incident Time :
IGC : McCreanor, Michael	Housing Location : Bldg 22, Upper, Tier A, Cell 4, Bottom	

APPEAL REQUEST

Appeal received September 19, 2007

Although this process violates my due process because as part of this process the committee is to afford me a copy of their decision. Instead I was given this blank piece of paper and told I could appeal what was told to me by Jan McLaren "if the doctor wanted me to have specific medication they would have ordered it." I totally disagree and inform this Appeal Officer that this decision conflicts with the Bureau of Prisons decision awarding me specific pain medication. Soma, sneakers, a bottom bunk, and a back brace (See attached exhibits detailing the process decision).

IGC Note: Inmate attached pages 1 and 2 of Grievance 5985 and Bureau Chief Letter dated August 4, 2004.

In accordance with Grievance Procedure 4.4 once the Bureau of Prison Chief makes a decision on a medical issue, it is final. Wherefore, I respectfully request that the Bureau of Prisons decision be carried out, noting that as of yet it has not been fulfilled either by DOC/DCC or CMS. It is a deliberate indifference to my serious medical needs to ignore a doctor's prescribed orders (White v Napoleon 897 F2d 103, 109 3rd Circuit 1990) Further denial demonstrates an intentional denial of doctor prescribed medical care (Vinnedge v Gibbs, 550 F2d 926 4th Circuit). Should I be treated differently from other inmates with similar needs that have not been objected to regarding their needs.

REMEDY REQUEST

DCC Delaware Correctional Center
 Smyrna Landing Road
 SMYRNA DE, 19977
 Phone No. 302-653-9261

Date: 02/04/2008

GRIEVANCE INFORMATION - BGO

OFFENDER GRIEVANCE INFORMATION		
Offender Name : BIGGINS, JAMES A	SBI# : 00319264	Institution : DCC
Grievance # : 115903	Grievance Date : 05/14/2007	Category : Individual
Status : Resolved	Resolution Status : Level 3	Inmate Status :
Grievance Type: Health Issue (Medical)	Incident Date : 04/05/2007	Incident Time :
IGC : McCreanor, Michael	Housing Location : Bldg 22, Upper, Tier A, Cell 4, Bottom	
REFERRED TO		
Due Date : 11/22/2007	Referred to: Person	Name: Dibble, Candy
Type of Information Requested : Medical case referral.		
DECISION		
Date Received : 10/10/2007		
Decision Date : 02/01/2008	Vote : Uphold	
Comments :		
IM last seen in medical on 1/24/08 and 12/4/07 for cc visit. Medication was ordered on 12/4/07 and IM shows receipt on 12/14/07. 10 days of lapse. Vendor needs to ensure timeliness of medication administration.		

DCC Delaware Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-653-9261

Date: 02/04/2008

GRIEVANCE INFORMATION - MEDICAL PROVIDER

OFFENDER GRIEVANCE INFORMATION

Offender Name : BIGGINS, JAMES A SBI# : 00319264 Institution : DCC
Grievance # : 115903 Grievance Date : 05/14/2007 Category : Individual
Status : Resolved Resolution Status : Level 3 Inmate Status :
Grievance Type: Health Issue (Medical) Incident Date : 04/05/2007 Incident Time :
IGC : McCreanor, Michael Housing Location : Bldg 22, Upper, Tier A, Cell 4, Bottom

MEDICAL PROVIDER

Provider Name : Contracted Health Services Date Received : 05/23/2007

MEDICAL HISTORY

Dates	Treatment
05/23/2007	NEURONTIN 300MG PO TID X 120DAYS ORDERED BY DR. DESROSIER
10/26/2006	SHOES-NEW BALANCE SIZE 9 ORDERED BY DR. VANDUSEN

DECISION

Decision Date: Vote :

Comments :
NO CURRENT ORDERED FOR SOMA
ADVANCE TO LEVEL II

GRIEVANCE INFORMATION - MGC

OFFENDER GRIEVANCE INFORMATION

Offender Name : BIGGINS, JAMES A SBI# : 00319264 Institution : DCC
Grievance # : 115903 Grievance Date : 05/14/2007 Category : Individual
Status : Resolved Resolution Status: Level 3 Inmate Status :
Grievance Type: Health Issue (Medical) Incident Date : 04/05/2007 Incident Time :
IGC : McCreanor, Michael Housing Location : Bldg 22, Upper, Tier A, Cell 4, Bottom

MGC

Date Received : Date of Recommendation: 10/10/2007

GRIEVANCE COMMITTEE MEMBERS

Person Type	SBI #	Name	Vote
Staff		McLaren, Jan	Deny
Staff		Dunn, Lee Anne	Deny
Staff		Gordon, Oshenka	Deny
Staff		Dutton, Matthew	Abstain

VOTE COUNT

Uphold : 0 Deny : 3 Abstain : 1

TIE BREAKER

Person Type	SBI #	Name	Vote
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RECOMMENDATION

Grievance Hearing Date: September 17, 2007

DEPARTMENT OF CORRECTION
Bureau of Prisons
245 McKee Road
Dover, Delaware 19904

22 All of

February 4, 2008
~~February 3, 2008~~

Inmate BIGGINS JAMES A
SBI # 00319264
DCC Delaware Correctional Center
SMYRNA DE, 19977

Dear JAMES BIGGINS:

We have reviewed your Grievance Case # 115903 dated 05/14/2007.

Based upon the documentation presented for our review, we uphold your appeal request.

Accordingly, there is no further issue to mediate nor Outside Review necessary as provided by BOP Procedure 4.4 entitled "Inmate Grievance Procedure", Level III appeals.

Sincerely,

Richard Kearney
Bureau Chief

Ex B-1

Certificate of Service

I, JAMES Arthur Biggins, hereby certify that I have served a true

And correct cop(ies) of the attached: Letter/Motion to Strike Defendants
(CMS) Motion in Opposition For A Temporary Restraining Order upon the following

parties/person (s):

TO: JAMES E. DINEEN, Esquire
Attorney for Corrections/Medical Services
Balick and Balick Attorney's at Law
711 King Street
Wilmington, Delaware 19801

TO: Opheelia M. Waters, Esquire
Department of Justice
820 North French St, 8th Floor
Carvel Office Building
Wilmington, Delaware 19801

TO: _____

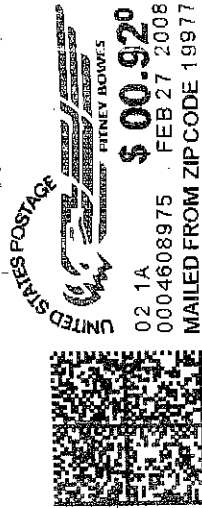
TO: _____

BY PLACING SAME IN A SEALED ENVELOPE, and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 27 day of February, 2008

James Arthur Biggins

IM JAMES ARTHUR BIGGINS
SB# #319264 UNIT 22/A-U-4
WARE CORRECTIONAL CENTER
181 PADDOCK ROAD
SMYRNA, DELAWARE 19977



beg
To the Clerk of the Court
United States District Court House
844 N. King Street, Lock box 18
Wilmington, Delaware
19801

1980133513 0012